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Government
Publications

ONTARIO

THE ONTARIO MUNICIPAL BOARD

56TH ANNUAL REPORT

by

THE ONTARIO MUNICIPAL BOARD

Upon the Affairs of The Board

During the Year Ended

December 31, 1961

TO: THE HONOURABLE THE MINISTER OF MUNICIPAL AFFAIRS

Pursuant to Section 100 of
The Ontario Municipal Board Act
R.S.O. 1960, Chapter 274

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ONTARIO

THE ONTARIO MUNICIPAL BOARD

PART I

ESTABLISHMENT AND OPERATION

The Ontario Municipal Board was established under the authority of The Ontario Railway and Municipal Board Act, 1906. The present organization of the Board is provided for in The Ontario Municipal Board Act, (R.S.O. 1960, c.274). The Board carries out and performs statutory duties and functions only, and while it is a corporate body the practice is strictly followed of assigning members to specific applications and thereafter they are considered seized of such application. If a change must be made for an unavoidable reason the hearing is commenced de novo. The Board is given jurisdiction under a large number of statutes but its procedure and general powers are governed by The Ontario Municipal Board Act. Two members are a quorum to hear and dispose of any application and the Chairman may appoint one member to hear any application and report to the Board. In such cases the decision or order is made by two other members, one of whom must be the Chairman or a vice-chairman.

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PART II

MEMBERSHIP AND ORGANIZATION

The membership and organization of the Board during the period covered by this report was as follows:

J. A. KENNEDY, Q.C. (Appointed October 1, 1956)	Chairman
R. L. KENNEDY (Appointed February 15, 1951)	Vice-Chairman
J. R. TURNBULL (Appointed June 1, 1960)	Vice-Chairman
A. H. ARRELL, Q.C. (Appointed June 30, 1961)	Vice-Chairman
C. F. NUNN (Appointed July 1, 1952 Retired September 30, 1961)	Member
W. GREENWOOD, B.Sc. (Appointed January 1, 1953)	Member
D. JAMIESON (Appointed December 1, 1955)	Member
V. S. MILBURN (Appointed April 1, 1956)	Member
A. L. McCRAE (Appointed December 1, 1958)	Member
H. E. ROBERTS (Appointed June 30, 1961)	Member

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B. VICKERS (Appointed April 1, 1961)	Secretary

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All members and staff are full-time employees and the Board's offices during the year were located in the Ontario Government Building at 145 Queen Street West, Toronto.

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PART III

JURISDICTION AND FUNCTIONS

Democratic government as we know it today is divided into three branches: legislative, executive and judicial. In Ontario certain duties of the executive have been vested by the Legislature in administrative boards such as the Ontario Municipal Board. Many of these statutory enactments vesting jurisdiction in administrative boards require that the Board hold a hearing before reaching a decision. The reason for this must be obvious. It is to ensure that those whose rights are to be affected will have the opportunity to be heard or, as it is sometimes phrased, "have their day in court".

This jurisdiction has been called the administrative process, borrowing as it does from the executive and from the judicial branches of government. The courts have held that where a tribunal such as this Board is required to hold a hearing, the rules of natural justice apply. These are:

1: That the tribunal shall be free from bias.

2: That all persons having an interest in the subject matter shall be heard.

This latter might be said to be the cardinal reason for the introduction of the administrative process into the machinery of government, to ensure that decisions would not be made administratively without the individual being given every opportunity to develop his case at a public hearing.

The actual duties and functions of the Board are found largely in The Municipal Act, The Assessment Act, The Planning Act and the school acts, but in addition there is a myriad of other statutory provisions which confer jurisdiction on the Board in a

very wide variety of cases. The functions and jurisdiction of the Board may be divided into two general categories:

1: Responsibility for the sound growth and development of municipalities within the framework of the statutes with particular regard to economic stability.

2: Jurisdiction as arbitrator in the first instance or by way of appeal to determine compensation to be paid by the Crown in the right of Ontario or its Crown corporations, by municipalities and other local authorities, and by certain private corporations.

These two divisions are reported on in Parts IV and V respectively of this report.

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PART IV

GROWTH AND ECONOMIC STABILITY OF MUNICIPALITIES

This part of the Board's jurisdiction can be divided under the following headings:

1: Constitution, Boundary Revision and Dissolution of Municipalities.

2: Approval of Capital Undertakings and of the Imposition of Rates and Levies to Recover the Cost Thereof.

3: Approval of Restricted Area By-laws, Official Plans and Plans of Subdivision.

4: Assessment.

SECTION 1

Constitution, Boundary Revision and Dissolution of Municipalities

During the year the Board ordered the incorporation of five villages, two improvement districts and two townships, and the erection of one town into a city, one village into a town and one improvement district into a township.

Given in Schedule "A" to this report is a list of amalgamation and annexation decisions delivered during the year. It will be noted that the annexations were small in each case but the amalgamation order whereby the Town of Oakville and the Township of Trafalgar were amalgamated into a town is worthy of note. Before the amalgamation Trafalgar Township was one of the larger townships in Ontario, containing some 68,000 acres. The new town is by far the largest in Ontario and indeed the greater part of the area is strictly rural. Attention is directed to the decision of the Board in that case for a more detailed discussion of the circumstances.

Some question arose as to the name to be selected for the new town. The councils of the town and township had agreed to compromise on the hyphenated name of Oakville-Trafalgar but

there was substantial opposition to this at the hearing before the Board. It appeared to be a question that ought to be submitted for a vote of the electors and this was done at the election held to select council and elective boards for the new town. By an overwhelming vote, and notwithstanding that the population of the township was substantially greater than that of the former town, the voters selected Oakville as the name.

SECTION 2

Approval of Capital Undertakings and of the Imposition of Rates and Levies to Recover the Cost Thereof

Undoubtedly the most important duty of the Board in protecting the economic stability of the municipality is the approval of capital expenditures to be made by municipalities and the consequent control of their debt. Of course it is of prime importance that the debt of each municipality be kept at such a level that the amount required annually to pay interest and instalments of principal will not prove an undue burden let alone an unbearable one, particularly in periods of economic recession and resulting unemployment. The prevalence of instalment buying of both commodities and real property has fostered increased demands for services for which the taxpayers cannot afford to pay in cash and consequently the cost must be borrowed on debentures. The resulting increase in the fixed overhead of municipalities is a serious matter and will become crippling in periods of recession if the total debt is not kept within a safe limit. This control of debt appears to be the Board's prime responsibility in the matter.

Undoubtedly this very broad duty was intended by the Legislature to be covered in Section 62 of The Ontario Municipal Board Act which it may be appropriate to quote:

> "62. The Board, upon any application of a municipality for approval of the exercise by a municipality of any of its powers, or of the incurring of any debt, or of the issue of any debentures, or of any by-law, shall, before approving the same, make such inquiry into the nature of the power sought to be exercised or undertaking that is proposed to be or has been proceeded with, the necessity or expediency of the same, the financial position and obligations of the municipality, the burden of taxation upon the ratepayers and into all other relative matters, as in the opinion of the Board may appear to be necessary or expedient."
>
> Note: It should be noted that the word "municipality" includes local boards by definition which in turn include school boards.

This Board has seen fit on occasion to seek to prevail on a council or local board to reduce the cost of certain undertakings in order that the very rapid increase of debt in the municipality would be kept within desirable limits and the credit of the municipality conserved for other urgently needed projects of the same class or of an equally important class. It is understandable that some councils or local boards interpret this as an invasion of local autonomy. Of course this practice has never gone beyond suggesting that the cost be reduced in such cases, because of this Board's constant respect for local autonomy. Besides, the Board is not equipped to review design and specifications for individual projects. Fortunately, the cases in which these attempts have been misunderstood and resented are very rare. In most cases the suggestions which the Board has made have led to helpful discussion and desirable results. In those rare cases where this co-operation has not been afforded by the local board or council, this Board has simply approved the project in question if found to be within the financial competence of the municipality and has declined to approve if it was not.

Another matter over which the Board must exercise careful scrutiny is a very sudden increase in the debt of the municipality in a relatively short period of time. Such sharp increase will be reflected, of course, in a sharp increase in the tax rate to service the increased debt with consequent hardship on taxpayers with limited resources. Still another feature of each application which receives special attention is any proposal that the whole or a part of the cost is to be recovered by the levy of a frontage rate or other special rate. Except in the rare case where a special rate would be very small, the Board requires that notice be given so that those against whom it is proposed to levy the special rate will have an opportunity to object. If objections are made the Board holds a hearing before the application is considered for approval.

Expanding during the year a practice which had been introduced previously, the Board requested a capital budget or forecast from a number of municipalities which, in the opinion of the Board, were approaching a safe limit for capital debt. These forecasts set forth, year by year, anticipated undertakings and the estimated cost of each, capital debt retirements in each year and also anticipated increase in assessment for each year. Such a study is prepared a ter consideration by the council of its own probable needs and after consultation with all local boards entitled to call on the council for the financing of capital works. This innovation has proved of great value to the municipalities as an incentive to proper planning and staging of needed works, and has provided a very important guide for the Board in assessing the need for the various projects proposed for approval as well as the financial capacity of the municipality to undertake any given work.

Under The Ontario Water Resources Commission Act the commission is empowered to make an agreement with any municipality for the construction by the commission of sewage works or waterworks as agent for the municipality. Under such an agreement the commission constructs the work in the municipality and usually has charge of operation until the cost of construction and all charges have been repaid by the municipality in full. Under the Act applications for the approval of this Board are made by the commission on behalf of the municipality. The obligation assumed by a municipality is treated by this Board as an addition to the capital debt and as a general rule the Board follows the same principle and practice with respect to approval of these applications as in the case of other applications by or on behalf of a municipality for approval of capital expenditures. Where any part of the cost is to be raised by the municipality by a special rate, the Board requires public notice and if objections of any substance are made, a public hearing is held. During the year 1961 the Board received 71 applications from the commission, having a total value of $30,385,805.29

The following table shows the number of new capital expenditure applications received and the total amount approved in each of the past five years:

Year	Number	Amount
1957	1,970	$ 258,634,295.33
1958	2,225	511,859,511.57*
1959	2,567	284,040,812.67
1960	2,415	317,940,371.21
1961	2,299	274,132,977.37

* The amount approved in 1958 includes the cost of construction of the east-west subway in the amount of $200,948,000.00.

A detailed classification of municipal capital expenditures approved during the year 1961 will be found in Schedule "B" to this report together with comparative totals for the previous year.

SECTION 3

Approval of Restricted Area By-laws
Official Plans and Plans of Subdivision

The jurisdiction conferred on the Board under this heading is contained in The Planning Act. The number of applications made to the Board under this legislation during the year, with figures for the previous year, is as follows:

	1960	1961
Applications for approval of restricted area by-laws	837	851
Applications for approval of plans of redevelopment	1	3
Applications for approval of proposed plans of sub-division	18	23
Applications for approval of official plan amendments	32	67
Appeals to Board for a direction that a restricted area by-law be amended by a council	66	64
Appeals from committees of adjustment	114	116

Under Section 30 of the Act by-laws prohibiting, restricting and regulating the use of land under the powers contained in that section come into force only with the approval of this Board. Under the provisions of the Act prior to 1960 the Board was empowered to give approval to such by-laws only after a public hearing on such notice as the Board would direct. By an amendment passed at the 1960-1961 session in response to a request by the Board, the giving of notice of the by-law is permitted to those to whom notice of a hearing would be directed by the Board, and if there are no objections the Board is given power to approve without a hearing. However, if objection is made, a hearing is held in every case. As a result of this new procedure, between March 29, 1961 when the amendment came into force and December 31, 1961, 292 amending by-laws, to which no objection was made after due notice, were approved without a hearing. It

will be apparent that in this way a great deal of time and inconvenience has been saved to the local authorities and to those whose rights were affected. The average time elapsing between the passing of the by-law and approval by this Board has been reduced from three months to six weeks. A further amendment has been requested this year which would further reduce this period by about two weeks. This would mean that by-law amendments to which there is no objection and which the Board will find to be appropriate for approval could be given approval in about four weeks, including fourteen days required for notice to those affected.

In the case of by-laws to which objection is taken by persons affected and in the case of appeals to the Board under Section 30 (19) of The Planning Act, whereby the Board is given power to direct that a restricted area by-law shall be amended by the council, this Board is entrusted with the duty of holding a hearing to review the action of the local council or its failure to act. By statute the council is given a discretion to pass by-laws with respect to matters of land use and subsequently to amend any by-law or refuse an amendment as the council may decide. On each hearing the Board must consider all evidence adduced and, after weighing the facts and all pertinent considerations, it must decide if the council has made a reasonable exercise of the discretion given to it by the statute. If it appears that the discretion has been exercised reasonably then the Board upholds the action of the council by approving the by-law or refusing to order an amendment, as the case may be. If the Board comes to the conclusion, after due deliberation, that there has not been a proper exercise of discretion by the council then the Board refuses approval of the by-law which has been passed or directs an amendment as may be required.

Obviously this is a very important responsibility and in each case the Board is called upon to consider in detail

and weigh very carefully the decision which has been made by the local council and the reasons for the same before it will refuse to approve a by-law or make an order requiring that an amendment shall be passed by the council.

The Board is invited very frequently, by legal counsel appearing before it, to hold that the municipality must be treated as any litigant but the Board refuses to concur in such a submission. The duty of the Board is to review what the council has done under authority reposed in the council by the Legislature. Under that authority the council is given a discretion and the Board should interfere only if it is shown that the council has not made a proper exercise of that discretion. In other cases the Board refuses to substitute its discretion for that of the council.

Also under the same Act the Board has jurisdiction to review a proposed official plan, a proposed amendment to an official plan, a proposal that the council shall be required to adopt an amendment to an official plan and proposed plans of subdivision.. In all these cases the Board is given jurisdiction upon a reference under the Act by The Honourable the Minister of Municipal Affairs. These applications are always considered at a public hearing held in the municipality concerned after notice to those persons whom the Board deems to be interested in the subject matter of the application.

Provisions of official plans and the approval of plans of subdivision are of basic importance in the orderly development of rural areas, especially those within the sphere of influence of large urban centres. In the respectful opinion of this Board measures to ensure that this development will proceed at a pace and under conditions that will safeguard the economic stability of the municipality are a necessity of the greatest urgency. With great hesitation, but for what appeared to be

urgent reasons, the Board has imposed conditions under Section 67 of The Ontario Municipal Board Act whereby further subdivision of land or approval of conveyances by metes and bounds in three municipalities must receive the approval of the Board.

There is mounting evidence that great pressures are exerted for development outside large urban centres where regulations are less strict, taxes are lower and the cost of land for development is often substantially less. Except in cases where proposed plans of subdivision are referred to the Board, this Board is unable to assert any control until after the plans have been approved and substantial development has occurred. When applications are subsequently made to this Board for approval of capital expenditures required to serve the new population, it is usually too late to protect the municipality from what may turn out to be very onerous new commitments, often so heavy as to tax the resources of the municipality to the point of economic peril. It is the respectful submission of this Board that there is grave and urgent need for effective liaison between those charged with the approval of plans of subdivision and those in a position to analyze and determine the impact that will result from the new development on the economic stability of the municipality concerned.

SECTION 4

Assessment Appeals

During the year 1961 the Board heard assessment appeals under several statutes as follows:

The Assessment Act	235
The Local Improvement Act	4
The Mining Tax Act	1
The Municipal Tax Assistance Act	1

Also, there were heard during the year 6 appeals for a review of the division of liability among municipalities comprising high school districts.

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PART V

ARBITRATIONS IN RESPECT OF COMPENSATION FOR LANDS TAKEN OR INJURIOUSLY AFFECTED

While the jurisdiction given to the Board to determine compensation or damages to be allowed for lands taken or injuriously affected appears on the face of it to be an administrative jurisdiction nevertheless the courts have held that strict rules of evidence and what amounts to reasonably strict court procedure must be followed in these cases. As required by the rules of natural justice the Board's decisions must be based only on known evidence and after a full hearing conducted according to legal principles. During the year 1961 the Board heard applications for the determination of compensation or damages to be allowed for lands taken or injuriously affected by provincial or municipal authorities and by private corporations with the right of expropriation as follows:

The Conservation Authorities Act	8
The Energy Act	3
The Highway Improvement Act	40
The Municipal Act	20
The Ontario Water Resources Commission Act	1
The Ottawa River Water Powers Act	3
The Power Commission Act	5
The Public Works Act	12
The St. Lawrence Development Act	9

The jurisdiction given to the Board under The Energy Act and under the conservation acts is an appellate jurisdiction while that given under the other statutes listed above is a jurisdiction to sit as arbitrator in the first instance.

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PART VI

DUTIES AS DRAINAGE REFEREE

For several years the Board has acted as Drainage Referee. This work consists mainly of hearing appeals under The Municipal Drainage Act and The Ditches and Watercourses Act. There is nothing remarkable about this part of the Board's work. During the year 1961 the Board heard one appeal.

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PART VII

REVENUE

In compliance with the requirement of Section 99 of The Ontario Municipal Board Act the Board has adopted a tariff of fees payable on various types of applications and orders.

The following table sets forth the fees received by the Board and transferred to the Treasurer of Ontario for the fiscal year ending March 31, 1961 and the preceding six years. In conformity with the present system of provincial accounting this table is given for the fiscal year only, in contrast to other statistics contained in this report, which are made for the calendar year ending December 31, 1961.

Fiscal Year	Amount
1954-55	$244,674.90
1955-56	264,098.16
1956-57	293,321.49
1957-58	272,339.09
1958-59	328,181.66
1959-60	345,538.56
1960-61	320,021.63

As a matter of interest the revenues of the Board for the calendar year amounted to $295,291.82.

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All of which is respectfully submitted.

J. A. KENNEDY
CHAIRMAN

W. GREENWOOD
MEMBER

R. L. KENNEDY
VICE-CHAIRMAN

D. JAMIESON
MEMBER

J. R. TURNBULL
VICE-CHAIRMAN

V. S. MILBURN
MEMBER

A. H. ARRELL
VICE-CHAIRMAN

A. L. McCRAE
MEMBER

H. E. ROBERTS
MEMBER

B. VICKERS
SECRETARY

This is SCHEDULE "A" to the 56TH ANNUAL REPORT of the ONTARIO MUNICIPAL BOARD

for the year 1961, made to

THE HONOURABLE THE MINISTER OF MUNICIPAL AFFAIRS

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DECISIONS GRANTING ANNEXATIONS - 1961

Date of Decision	To	From	Effective Date	Area
Mar. 17, 1961	Smiths Falls, Town	Montague Township	May 1, 1961	100.3 acres
Oct. 13, 1961	Delhi Town	Windham Township	Jan. 1,1962	340.2 acres
Dec. 8, 1961	Mimico Town	Etobicoke Township	Jan.15, 1962	(1000' into Lake Ontario)
Dec. 14, 1961	Picton Town	Hallowell Township	Mar. 1, 1962	33.836 acres
Jan. 4, 1961	Streetsville Town	Toronto Township	Mar. 1, 1961	.406 acres
Feb. 22, 1961	Erie Beach Village	Harwich Township	Apr. 1, 1961	2. acres
June 23, 1961	Eastview Town	Ottawa City	Aug. 1, 1961	22,084 sq.ft.
June 23, 1961	Ottawa City	Eastview Town	Aug. 1, 1961	47,496 sq.ft.
June 23, 1961	Galt City	North Dumfries Township	Jan. 1, 1962	8.62 acres
Nov. 15, 1961	Dresden Town	Camden Township	Jan. 1, 1962	88.5 acres

AMALGAMATION GRANTED - 1961

Aug. 8, 1961	Trafalgar Township	Oakville Town	Jan. 1, 1962

This is SCHEDULE "B" to the 56TH ANNUAL REPORT of the ONTARIO MUNICIPAL BOARD

for the year 1961, made to

THE HONOURABLE THE MINISTER OF MUNICIPAL AFFAIRS

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CLASSIFICATION OF MUNICIPAL CAPITAL EXPENDITURES

APPROVED DURING 1961

I - MUNICIPAL

			Totals	
(1)	General Government	Amount Approved	1961	1960
	Civic Buildings	$ 4,030,202.04		
	Civic Equipment	7,200.00	$ 4,037,402.04	$ 4,436,056.95
(2)	Protection to Persons & Property			
	Fire	1,570,569.52		
	Police	356,190.00		
	Court Houses & Jails	1,061.53		
	Street Lighting	411,576,00	2,339,397.05	3,713,775.96
(3)	Public Works			
	(a) Grade Separations	16,222,883.16		
	Streets, Roads, Lanes	35,003,139.01		
	Sidewalks	5,575,926.65		
	Bridges	5,613,312.00		
	Tunnels & Subways	5,885,000.00		
	Road Machinery	308,262.64		
	Workshops & Yards	509,845.00	69,118,368.46	55,766,400.29
	(b) Watermains	12,128,828.09		
	Storm Sewers	19,821,647.44		
	Shore Protection	237,060.00		
	Conservation Projects	152,991.56		
	Waterways, Harbour Developments	60,000.00	32,400,527.09	42,129,612.85
(4)	Sanitation and Waste Removal			
	Sanitary Sewers	21,638,728.95		
	Sewage Treatment Works	8,425,860.68		
	Garbage	313,500.00		
	Street Flushing	19,210.00		
	Waste Collection Disposal	549,240.00	30,946,539.63	42,129,612.85
(5)	Health			
	Hospital Grants	13,013,725.19		
	Nurses' Residences	500,000.00	13,513,725.19	16,526,932.00
(6)	Social Welfare			
	Welfare Offices	250,000.00		
	Homes for the Aged	6,817,228.52	7,067,228.52	7,532,207.09

Schedule "B" - continued

I - MUNICIPAL

(7) Recreation Services

Parks	$ 2,338,347.00		
Skating Rinks, Arenas	1,228,782.19		
Swimming Pools, Beaches	528,594.40		
Community Centres	467,461.60	$ 4,563,185.19	$ 7,021,534.63

(8) Community Services

Art Galleries	122,742.00		
Exhibitions, Fairs	3,857,508.00		
Libraries	3,191,276.13		
Housing	394,750.00	7,566,276.13	5,635,113.13
	General Government	$171,552,649.30	$184,770,716.54

II - EDUCATION

Elementary Schools	$ 35,373,814.47		
Secondary Schools	35,108,157.52	$70,481,971.99	$104,152,523.93

III - UTILITIES and MUNICIPAL ENTERPRISES

Electric Utilities	15,374,488.25		
Water Works	8,631,959.27		
Municipal Telephone	63,200.00		
Acquisition of Lands (Industrial)	1,302,205.00		
Transportation	1,933,380.00		
Others - Including Parking Lots	4,793,123.56	$32,098,356.08	$29,017,130.74

S U M M A R Y

General Government	$171,552,649.30	$184,770,716.54
Education	70,481,971.99	104,152,523.93
Municipal Enterprises	32,098,356.08	29,017,130.74
	$274,132,977.37	$317,940,371.21

CAPITAL EXPENDITURES - 1961

Separate Statement of Local Debt and General Debt

	Local Debt	General Debt	Total
General Government (1)		$ 4,037,402.04	
(2)		2,339,397.05	$ 6,376,799.09
Public Works	$46,101,942.26	55,416,953.29	101,518,895.55
Sanitation	11,954,821.40	18,991,718.23	30,946,539.63
Health		13,513,725.19	13,513,725.19
Local Welfare		7,067,228.52	7,067,228.52
Recreation Services		4,563,185.19	4,563,185.19
Community Services		7,566,276.13	7,566,276.13
Education		70,481,971.99	70,481,971.99
Electric Light		15,374,488.25	15,374,488.25
Water Area		8,631,959.27	8,631,959.27
Telephone		63,200.00	63,200.00
Acquisition of Lands (Industrial)		1,302,205.00	1,302,205.00
Other - includes Parking Lots		4,793,123.56	4,793,123.56
Transportation		1,933,380.00	1,933,380.00
	$58,056,763.66	$216,076,213.71	$274,132,977.37